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September 3, 2008

Honorable Anne K. Quinlan
Acting Secretary
Surface Transportation Board
395 E Street, S.W.
Washington, D. C. 20423

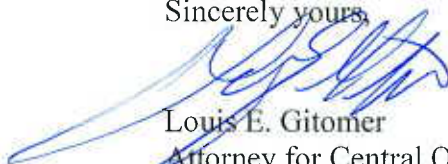
RE: Finance Docket No. 35175, *Roseburg Forest Products Co., Timber Products Company, LC, Suburban Propane, LP, Cowley D&L, Inc., Sousa Ag Service, and Yreka Western Railroad Company—Alternative Rail Service—Central Oregon & Pacific Railroad, Inc.*
Ex Parte No. 346 (Sub-No. 25C), *Rail General Exemption Authority—Petition for Partial Revocation of Commodity Exemption—Lumber or Wood Products*

Dear Acting Secretary Quinlan:

Enclosed for efilng is the Response of the Central Oregon & Pacific Railroad, Inc. to the Petition filed in the above-entitled proceeding.

Thank you for your assistance. If you have any questions please call or email me.

Sincerely yours,



Louis E. Gitomer
Attorney for Central Oregon & Pacific
Railroad, Inc.

Enclosure

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 35175

ROSEBURG FOREST PRODUCTS CO., TIMBER PRODUCTS COMPANY, LC,
SUBURBAN PROPANE, LP, COWLEY D&L, INC., SOUSA AG SERVICE, AND YREKA
WESTERN RAILROAD COMPANY--ALTERNATIVE RAIL SERVICE--
CENTRAL OREGON & PACIFIC RAILROAD, INC.

Ex Parte No. 346 (Sub-No. 25C)

RAIL GENERAL EXEMPTION AUTHORITY--PETITION FOR PARTIAL REVOCATION
OF COMMODITY EXEMPTION--LUMBER OR WOOD PRODUCTS

RESPONSE OF CENTRAL OREGON & PACIFIC RAILROAD, INC.

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Dated: September 3, 2008

BEFORE THE
SURFACE TRANSPORTATION BOARD

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ROSEBURG FOREST PRODUCTS CO., TIMBER PRODUCTS COMPANY, LC,
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OF COMMODITY EXEMPTION–LUMBER OR WOOD PRODUCTS

RESPONSE OF CENTRAL OREGON & PACIFIC RAILROAD, INC.

The Central Oregon & Pacific Railroad, Inc. (“CORP”) has met all reasonable requests for railroad service on the line between Black Butte, CA and Dillard, OR. CORP’s service is not inadequate. However, due to lack of shipper demand, CORP has not served the line between Montague, CA and Ashland, OR since May 6, 2008, the last date that service was requested.

Even though CORP’s service is not inadequate, CORP understands that some of its shippers desire rail service over the Siskiyou Pass between Montague and Ashland, as evidenced by the Petition. In response to the shipper concern and in an attempt to avoid a government mandated solution, CORP is willing to enter an agreement to allow operations over the line between Black Butte, CA and Medford, OR, as long as CORP is assured that it will receive compensation pursuant to the Surface Transportation Board’s (the “Board”) formula for alternative service, CORP is protected from liability caused by the operations of another railroad,

the new operator is qualified to operate over the line, and the remainder of the agreement is governed by standard rail industry terms. To effectuate this proposal and recognize the exigency suggested by the shippers, CORP requests the Board to hold this proceeding in abeyance for 15 days to give the parties time to negotiate a voluntary agreement in accord with principles set forth above.

CORP will demonstrate that its service is not inadequate and that this proceeding is about the rates that CORP has put into effect. CORP will also clarify the proposal that would result from a private party initiative that would allow a third party to operate the line subject to Board authorization, but without a mandate from the Board. Exhibit A hereto is a verified statement by Mr. Patrick Kerr.

BACKGROUND

I. The Petition.

On August 26, 2008, a petition seeking alternative rail service pursuant to 49 U.S.C. §11123(a) and 49 C.F.R. §1146 (the “Petition”) was filed by Roseburg Forest Products Co. (“RFP”), Timber Products Company, LC (“TPC”), Suburban Propane, LP (“SP”), Cowley D&L, Inc. (“CDL”), Sousa Ag Service (“SAS”), and Yreka Western Railroad Company (“YWRC”), jointly the “Petitioners.”¹ The Petitioners propose that the alternative service be provided by the West Texas and Lubbock Railroad Company (“WTL”).² In the same pleading, RFP and TPC also filed a request pursuant to 49 U.S.C. §10502(d) and 49 C.F.R. §1121.4(f) to partially revoke

¹ RFP, TPC, SP, CDL, and SAS are referred to as the “Shipper Petitioners.”

² WTL is the subsidiary of Permian Basin Railways, Inc. (“PBR”), which in turn is a subsidiary of Iowa Pacific Holdings, LLC (“IAPAC”).

the exemption of lumber and wood products so that they can obtain the relief sought in the Petition.³

As CORP understands the Petition, Petitioners seek alternative service from WTL as follows: (1) for CDL located at Grenada, CA, between Black Butte, CA and Dillard, OR; (2) for SAS located at Montague, CA, between Black Butte, CA and Dillard, OR; (3) for SP located on the YWRC at Yreka, CA, between Black Butte, CA and Dillard, OR; (4) for TPC located on the YWRC at Yreka, CA, between Yreka and its mills at Medford and Grants Pass, OR, and to interchange with the WCTU Railway Company at White City, OR; (5) for RFP located at Weed, CA, between Weed and its mills at Riddle and Dillard, OR; and (6) from all of the Shipper Petitioners locations to and from the interchange with the Union Pacific Railroad Company (“UP”) at Black Butte, CA. WTL does not propose to serve any shipper other than the Shipper Petitioners between Black Butte and Dillard and will leave CORP to serve those shippers. Petitioners also contend that between Black Butte and Ashland, OR, the only shippers are the Shipper Petitioners, so that any shippers who locate or start shipping by rail between Black Butte and Ashland would also be served by CORP.

YWRC states that it “has agreed to act as WTL’s agent in regard to local transportation matters. Pursuant to the agency arrangement between WTL and YWR, WTL would administer the alternative service, with YWR handling local-rail transportation matters. WTL would issue the bill of lading and collect freight charges on shipments not involving YWR. YWR would handle all traffic on its line to and from its interchange at Montague, CA, would provide it’s

³ CORP will not address the request to partially revoke the exemption. Once the Board determines that CORP is providing adequate service to Petitioners, it will not be necessary to revoke the exemption to grant an emergency service order. If the Board adopts CORP’s proposed negotiated solution, revocation of the exemption will also not be necessary.

ALPHA and Numeric codes, and would maintain its interchange agreements and relationships with connecting carriers on all traffic originating or terminating on YWR.” Petition, Hammond VS 1-2. CORP will not respond to YWRC’s statement since CORP does not understand it.

UP filed a response to Petitioners requesting an agreement with WTL to operate over the portion of the line owned by UP.

II. The line between Black Butte, CA and Dillard, OR, transportation alternatives, CORP’s December 13, 2007 letter, and mountain operations.

A. The line between Black Butte, CA and Dillard, OR. CORP acquired its railroad from the Southern Pacific Transportation Company (“SPT”), predecessor in interest to UP, on December 31, 1994. CORP acquired approximately 446.05 miles of railroad, by purchase, lease and trackage rights.⁴ As relevant to this proceeding, CORP purchased 218.73 miles between near Springfield, OR, milepost 644.02, and near Bellview, OR, milepost 425.29, and leased from SPT (now UP) 79.0 miles between Bellview, OR, milepost 425.29, and Black Butte, CA, milepost 346.00. Dillard is located at milepost 562.0, Riddle is located at milepost 544.2, Grants Pass is located at milepost 473.9, White City is located at milepost 455.9, Medford is located at milepost 441.8, Ashland is at milepost, 429.1, Montague is located at milepost 375.5, Grenada is located at milepost 369.1, and Weed is located at milepost 348.4.

⁴ *Central Oregon & Pacific Railroad, Inc.—Lease, Operation, and Acquisition Exemption—Southern Pacific Transportation Company*, ICC Finance Docket No. 32567 (ICC served January 19, 1995). On that same date RailTex, Inc., the noncarrier parent of CORP and the predecessor of RailAmerica, Inc., acquired authority to continue in control of CORP upon its becoming a Class III rail carrier. *RailTex, Inc.—Continuance in Control Exemption—Central Oregon & Pacific Railroad, Inc.*, ICC Finance Docket No. 32568 (ICC served January 19, 1995). CORP’s exemption authority was partially revoked to allow for the imposition of labor protection. *Central Oregon & Pacific Railroad, Inc.—Lease, Operation, and Acquisition Exemption—Southern Pacific Transportation Company*, STB Finance Docket No. 32567 (STB served February 13, 1996).

CORP still holds itself out to provide service between Black Butte, CA and Dillard, OR. CORP's tariff for providing service is still in effect and is attached hereto as Exhibit 2 to Mr. Kerr's verified statement. Specifically, CORP is providing service (1) between Montague, its interchange with YRWC, and Black Butte up to five times per week for interchange with UP using a switcher located in Weed, CA; and (1) between Phoenix and Dillard and points north is generally four to five days per week, with service in Medford, Riddle, and Dillard five days per week. The only reason that CORP does not serve (1) TPC between Yreka and its mills at Medford and Grants Pass, OR, and to interchange with the WCTU Railway Company at White City, OR, or (2) RPF between Weed and its mills at Riddle and Dillard, OR, is because both shippers have voluntarily elected to divert their traffic to truck.⁵ CORP is ready, willing, and able to provide reasonable service upon reasonable request at published rates to RFP and TPC, unless the parties are able to negotiate another arrangement. CORP has not embargoed, discontinued service over, or abandoned the Black Butte to Dillard Line, or any portion thereof.

Not only is CORP holding itself out to provide service to the Shipper Petitioners between their locations in California and Oregon over the Black Butte to Dillard Line, but there is alternative rail service available. RFP and TPC have diverted their traffic from CORP to alternative truck transportation.

B. Transportation alternatives. In addition to the current service that CORP offers over Siskiyou Pass at current rates, CORP is willing to reroute traffic from Montague, Grenada, and Weed south to Black Butte for interchange to the UP which handles the traffic north to Springfield for interchange to CORP which will then transport the traffic south for delivery to

⁵ As will be explained later, TPC owns and operates a vast trucking company.

Dillard, Riddle, Grants Pass, White City, Medford, and Ashland. Indeed, this is the reverse of the move that WTL does not seek to replace for RFP and TPC. The Petition states that “Alternative rail service is not sought for traffic from their [RFP and TPC] mills in Oregon that formerly was transported to the UP connection at Black Butte, but which has been rerouted north from the mills.” Petition at 7.

Another rail alternative is also available. Pursuant to the lease of the line from UP to CORP between Black Butte and Bellview, UP retained the right to quotes rates from those points and has retained opens stations south of Bellview. The Shipper Petitioners could request service from UP, which would be provided in an arrangement involving transportation over UP and CORP.

Finally, alternative truck transportation is available. Both TPC and RFP state they have diverted their northern California traffic from CORP to truck for economic reasons. Petition, Hart VS at 8 (“pricing gap”) and Jeffers VS at 6 (“RFP has not tendered any traffic for such transportation since that increase”). Indeed, TPC owns and operates its own trucking company. Exhibit B is a printout of the description of TPC’s trucking company (TPC’s web site at www.Timberproducts.com), TP Trucking, and its brochure. According to the second page of the brochure (Page 5 of Exhibit B) “TP Trucking is a full-service transportation company operating in all 48 contiguous states. With terminals in Oregon and Mississippi, we can provide a cost-effective solution to any shipping challenge for any goods, to any destination in North America.” From its own words, it is clear that TPC does not need to rely on rail service over the short distances between Yreka and Medford, Grants Pass, and White City. Surely if TPC can “provide

a cost-effective solution to any shipping challenge” for its customers, it can do the same for itself.

Indeed, prior to the 1999-2000 period when CORP reinstated rail service over the Siskiyou Pass, the shippers in northern California used truck service, as they are doing today, instead of rail. CORP understands that SPT had stopped serving over the Siskiyou Pass for several years before it was leased by CORP and that the shippers had used truck as an alternative at that time. Truck was used as an alternative after a tunnel fire on the Siskiyou Pass in November 2003 forced the closure of the line for more than a year. In neither instance did the shippers formally complain to the STB or seek emergency rail service.

Even though CORP was and remains ready, willing, and able to provide reasonable rail service upon request, TPC and RFP diverted their traffic from rail to truck after CORP sought to address its revenue needs through service and rate actions.

C. CORP’s December 13, 2007 letter.

On December 13, 2007, CORP sent a very forthright letter to its customers on the Siskiyou Subdivision advising them that CORP was losing money on the line and of the solutions CORP would pursue. See Petition, Hart VS, Appendix SSH-1.⁶

CORP identified the problem as the expense of conducting railroad operations in the mountainous terrain of the Siskiyou Subdivision.⁷ CORP sought to reduce costs by reducing operations over the Siskiyou Subdivision. First, CORP rerouted traffic originating north of Bellview north to Eugene and then south over the UP (including further interchange back to

⁶ There is no need for CORP to burden the record with additional copies of the letter.

⁷ The Board has recognized the substantial expense incurred in railroad operations in mountainous terrain. See, *Duke Energy Corporation v. CSX Transportation, Inc.*, STB NOR 42070, STB served February 4, 2004.

CORP at Black Butte). CORP proposed the same service and rates over this movement. For traffic originating south of Hornbrook, which is north of Montague, Grenada and Weed, and destined for interchange to UP at Black Butte, CORP continued the routing of that traffic.

For traffic originating and terminating in the Weed, CA area, CORP proposed to continue to provide service over the Siskiyou Subdivision two days per week in each direction. In addition, CORP stated “but we will modify our schedule as appropriate for the traffic.” CORP did modify the schedule as necessary to accommodate traffic when more was tendered than CORP could handle in two day per week service. Exhibit 5 to Mr. Kerr’s verified statement details CORP’s operations under the revised schedule between January 15, 2008, when the revised service began and May 1, 2008, the last day rail traffic was tendered to CORP for movement over the Siskiyou Subdivision (the “Train Chart”). The Train Chart shows the date and day of the operation. It indicates the number of locomotives on the train, the number of cars in the train, whether they were loaded or empty cars, and whether they were moved northbound or southbound. The Train Chart also shows the number of cars left behind and comments.

As can be seen from the Train Chart, the cars that RFP and TPC claim were just not handled from January 31, 2008 to February 8, 2008, were not moved because the Siskiyou Subdivision was impassible due to several snow storms. Even in the midst of the snow storms, CORP ran an extra train on Saturday February 2, 2008 to clear the loads left at Montague because of the storm, but only moved 19 of the cars because the twentieth car was bad ordered. CORP operated the snow plow on the Siskiyou Subdivision on February 1, 5, 7, and 8, 2008 to clear the line. Then on Friday February 8, 2008, once the line was again passable, CORP ran another train to clear 30 loads that had backed up and to deliver 33 empty cars. It can hardly be

considered inadequate service for a railroad to close its line due to snow storms that also closed Interstate 5, the main north south highway on the west coast.

When extra loads backed up because the CORP trains did not have enough locomotive power to move them over the mountains, CORP sent out extra trains on additional days (See Saturday February 2, Friday February 8, Saturday February 9, Friday March 6, and Monday April 7).

CORP lived up to its offer in the December 13 letter to provide additional service as needed. If CORP had not provided this additional service, which Petitioners fail to mention in the Petition, the backlog of cars would have constantly grown. The backlog of cars did not grow because CORP took its common carrier obligation seriously and provided adequate service to the Shipper Petitioners.

As noted by RFP and TPC, they negotiated with CORP for contract service that would have provided them with specific levels of service in return for certain rates. As is also clear from the Petition (Hart VS and Jeffers VS), RFP and TPC declined to enter contracts with CORP because the parties could not agree on rates. However, CORP provided reasonable service based on reasonable demand, but not the specific service that RFP and TPC sought in the contract negotiations. Adequate service should equate to reasonable service, not to the special service that a shipper could obtain through a contract.

As stated by Mr. Kerr, CORP published new rates on April 15, 2008, which became effective on May 6, 2008. Upon publication of the new rates, both RFP and TPC decided to terminate the use of CORP over the Siskiyou mountain pass and to divert their traffic to truck. RFP and TPC believe the new rates are too high, but are obviously unwilling to challenge them

before the Board because they realize that CORP does not possess market dominance over the traffic and that they could not prove the rates to be unreasonable under the Board's rate reasonableness standards.

CORP is well aware of the need to notify its shippers in advance, when possible, of problems and changes. That was the purpose of the December 13, 2007 letter. Although the letter indicated that CORP would discontinue service over the Siskiyou mountain pass on April 15, 2008, CORP did not discontinue service.⁸ CORP continued to provide service over the Siskiyou mountain pass as long as traffic was tendered to it. CORP operated over the Siskiyou mountain pass on April 15, 17, 22, 24, 29, and May 1, despite not being able to secure the necessary economics to profitably operate. CORP would still be operating over the Siskiyou mountain pass if RFP and TPC continued to tender traffic. The Board should not accept the claims of RFP and TPC that it was not providing adequate service because they refused to tender traffic to CORP. TPC's concerns have proven to be unfounded because CORP continued to operate after April 15 and TPC could have re-diverted its traffic to CORP. However, TPC is unwilling to pay the new rates that CORP has put in effect (Petition, Hart VS at 9-10). The same is true of RFP (Petition, Jeffers VS at 6).

As indicated in the December 13 letter, CORP has increased its rates. CORP increased the rates based on two factors. First, CORP sought to price to the market. Second, CORP believes that its rates are no more than a revenue to variable cost ratio of 180 percent.

⁸ CORP is well aware that it cannot discontinue service over a rail line without advance Board authorization. CORP also knows that it cannot embargo a rail line unless there is a serious safety issue that will require substantial time and money to repair. As previously stated, the Black Butte to Dillard line is not embargoed and service has not been discontinued. Trains are not running because shippers are not tendering CORP traffic.

D. Mountain operations. Petitioners have failed to mention the most important fact involved in service between Montague, CA and Ashland, OR. CORP has two of the most severe grades on the Siskiyou Subdivision. The steepest part of the grade over the Siskiyou Pass is between 3.6 and 3.8 percent. Over Bailey's Hill, the grade is about 3.0 percent. However, a train consist must be prepared to operate over the steepest grade. The grade over the Siskiyou Pass is one of the most severe grades, if not the most severe grade, in the United States.

The grade begins at milepost 427 near Medford, peaks at milepost 412, is the same on the downside of the Siskiyou Pass to milepost 402, where the grade up Bailey's Hill begins, peaks at milepost 399 and continues downhill at the same grade to milepost 395.

Operations are usually made with a five locomotive consist, which generally contains three SD40 and two GP38 locomotives. An SD40 locomotive can generally pull up to seven loads on the Siskiyou Pass grade, and a GP 38 locomotive can generally pull up to five loads on the Siskiyou Pass grade. Another constraint on mountain operations is the draw bar trailing tonnage limit on the last locomotive of the consist, which is about 4,000 tons or 37 loaded cars depending on per car weight. CORP does not have extra locomotives to substitute when one locomotive is lost due to mechanical problems or for long term maintenance. Once the consist of locomotives is reduced, the number of loaded cars that can be hauled is also reduced. If CORP were to keep extra locomotives available, but unused, it would expect the shippers to pay for that special inefficient service.

Not only does CORP face extreme operating conditions, but because of the altitude of the line, CORP faces extreme winter weather. Petitioners point to a disruption of service over the Siskiyou Pass at the end of January and beginning of February 2008. Petition at 3. Attached are

newspaper articles from February 2008 (Exhibit 4 to Mr. Kerr's verified statement) reporting on the large and continuous snow falls in the Siskiyou Pass in late January and early February 2008. These articles indicate that these storms closed I-5, the main north south highway on the Pacific coast. Also attached are pictures of CORP attempting to plow snow off of its rail line. These operations generally take one day to complete. But because there were three to four storms back to back, it took CORP longer to plow the line because there was no where to move the snow on either side of the line. From January 31 to February 8, CORP had to plow about four feet of snow.

ARGUMENT

CORP will demonstrate that Petitioners are not complaining about adequate rail service, but about the rates that CORP is now charging. Since the Shipper Petitioners' complaint is actually about rates, alternative rail service is not an appropriate remedy. However, CORP is willing to make the line between Black Butte and Medford available for operations by WTL subject to: (1) WTL paying CORP compensation according to the formula established by the Board; (2) WTL providing liability protection and insurance for CORP, (3) WTL being qualified to operate on the line; and (4) standard rail industry provisions for use of another railroad's line. CORP suggests that once Petitioners have filed their rebuttal as required by 49 CFR 1146.1(b)(3), that the Board hold this proceeding in abeyance for 15 days to give the parties time to negotiate a voluntary use of the line under the principles set forth by CORP.

I. CORP's service is adequate.

A. Criteria for the Board to grant alternative service. The Board has developed specific criteria for granting expedited relief under 49 U.S.C. §11123(a) for service emergencies.

“Alternative rail service will be prescribed under 49 U.S.C. 11123(a) if the Board determines that, over an identified period of time, there has been a substantial, measurable deterioration or other demonstrated inadequacy in rail service provided by the incumbent carrier.” 49 C.F.R. §1146.1(a).

Before it can make the required finding under section 1146.1(a), the Board has placed the burden on the parties seeking expedited relief for service emergencies to provide the Board with:

- (i) A full explanation, together with all supporting evidence, to demonstrate that the standard for relief contained in paragraph (a) of this section is met;
- (ii) A summary of the petitioner's discussions with the incumbent carrier of the service problems and the reasons why the incumbent carrier is unlikely to restore adequate rail service consistent with current transportation needs within a reasonable period of time;
- (iii) A commitment from another available railroad to provide alternative service that would meet current transportation needs (or, if the petitioner is a railroad and does not have an agreement from the alternative carrier, an explanation as to why it does not), and an explanation of how the alternative service would be provided safely without degrading service to the existing customers of the alternative carrier and without unreasonably interfering with the incumbent's overall ability to provide service.

In adopting these rules, the Board stated that:

We emphasize that the temporary service relief to be offered under these rules is meant only to address serious service problems and only to the extent necessary to meet a demonstrated need for rail service; it is to be used for restorative or alleviative purposes only, and not as a punitive or preventive measure.

Expedited Relief for Service Inadequacies, 3 S.T.B.968, 973 (1998) (“*Expedited Relief*”). TPC stopped requesting service from CORP as of April 15 and RFP as of May 2. The Petition was not filed until August 26, 2008, almost four months after RFP and TPC voluntarily stopped requesting service from CORP. Petitioners claim that it took four months to interview short lines and find one willing to provide service. However, if this were a serious service problem to meet a demonstrated need, Petitioners would not have stopped using rail service on CORP and dallied

for four months in finding a carrier to provide emergency service. Indeed, according to Petitioners, they began having doubts about CORP's service based on the December 13, 2007 letter, over eight months before the Petition was filed. Petitioners' diversion of traffic to trucks and dilatory actions in filing the Petition is clear evidence that there is not a serious service problem or a demonstrated need for rail service. Petitioners are merely attempting to improperly use section 1146.1 because of the rates that CORP has put into effect.

In discussing the emergency service rules, the Board also cautioned that:

Nor are they meant for situations where service is adequate, but simply not up to the level that a particular shipper or connecting carrier might desire. In other words, while transportation needs are crucial, individual service desires are not necessarily the proper determinant of the adequacy or inadequacy of rail service, as some shippers have suggested.

Id. at 974. In this proceeding, RFP and TPC are seeking service at certain levels that they sought to negotiate with CORP, which is more than adequate service. However, because the parties were unable to agree to the rates, they did not enter a contract. CORP has provided RFP and TPC with adequate service, however since May 2 for RFP and April 15 for TPC, CORP has not provided service because there is no demand.

The Board indicated the importance of recent discussions between the incumbent carrier and the parties seeking emergency service:

Advance discussions between the parties are indispensable. They may help solve or ameliorate the service problems; narrow the issues in dispute; or, at a minimum, enable a more complete and informative record to be developed upon which we can assess the situation and the proposal for relief. Thus, it is in all parties' interests to engage in full, good faith discussions.

Id. at 977. Not only was the requirement of recent discussions important concerning the service issue, but also to provide advance notice to the incumbent railroad of the impending filing of the petition.

while the time for filing a reply is short, the incumbent will receive additional actual notice, because the petitioner is required to discuss the service problems with the incumbent carrier prior to filing the petition for relief.

Id. at 972. Petitioners have not engaged CORP in discussions concerning service issues recently. TPC ended discussions on April 11, 2008 (Petition, Hart VS 10) and RFP ended discussions in April (Petition, Jeffers VS 6). The “discussions” between TPC and CORP and RFP and CORP were for the purpose of entering a contract for future rail service which included rates and service, among other factors. These discussions were not for the purpose of resolving a service emergency, much less providing notice that Petitioners would seek relief under section 1146.1. Petitioners acted contrary to the Board’s rules and did not provide CORP with advance notice of the filing of the Petition from Petitioners.

Based on the criteria in the rules, the Board’s explanation of the purpose of the rules in adopting them, the law as developed by the Board subsequent to the adoption of the rules, and the facts presented by Petitioners, CORP contends that Petitioners have not met their burden under section 1146.1(a).

B. The Shipper Petitioners have not met the criteria for alternative rail service.

The Petition is seeking emergency service because it contends that the rates are too high, whether offered by CORP during contract negotiations or adopted by CORP when the parties failed to agree on new contracts.

The Board denied a request for expedited relief for service emergencies because the alleged service inadequacies were primarily based on rates and stated:

The alleged service inadequacy at issue here is based primarily on the rates TP&W seeks to charge for movements over, or to and from points on, the La Harpe-Canton line. Rate disputes do not constitute service disruptions or inadequacies within the meaning of 49 U.S.C. 11123. Section 11123 provides that the Board may order relief for equipment shortages, traffic congestion, and unauthorized cessation of operations. None of these is analogous to allegations of unreasonably high rates.

Rate disputes require permanent, not temporary, relief, which can be obtained only on fully developed records based on rate complaints filed under 49 U.S.C. 10701(d)(1). In contrast, the regulations at part 1146 are intended to provide temporary relief on an accelerated basis. They are not intended to be a surrogate for rate reasonableness proceedings. Indeed, a predicate for the Board's authority to address unreasonable rates is that the defendant carrier be found market dominant, something that has not been alleged, much less demonstrated, in this case. Therefore, alternative rail service relief is not available here.

Keokuk Junction Railway Company—Alternative Rail Service—Line of Toledo, Peoria and Western Railway Corporation, STB Finance Docket No. 34397 (STB served October 31, 2003) at 6 (“*KJRY-TPW*”). See also, *Albemarle Corporation—Alternative Rail Service—Line of The Louisiana and North West Railroad Company*, STB Finance Docket No. 34931 (STB served October 6, 2006) at 4 (“rate disputes do not constitute service disruptions or inadequacies within the meaning of 49 U.S.C. 11123”); and *Pioneer Industrial Railway Co.—Alternative Rail Service—Central Illinois Railroad Company*, STB Finance Docket No. 34917 (STB served January 12, 2007) at 9-10 (a rate increase is not justification for alternative service). Petitioners have availed themselves of alternate truck service. They voluntarily stopped tendering traffic to CORP. As CORP has stated throughout this reply, CORP is ready, willing, and able to handle Petitioners' traffic on reasonable demand and provide reasonable service under the existing rates. Shipper Petitioners have voluntarily chosen not to use CORP's service. Petitioners are seeking

emergency service because of the rates that CORP has adopted. As the Board has consistently stated, Petitioners are not entitled to emergency service because of a rate dispute.

In addition, the Board has denied a request for expedited relief for service emergencies because the railroad “stated that it is ‘ready, willing and able to resume operations over the Line.’” *Keokuk Junction Railway Company—Alternative Rail Service—Line of SF&L Railway, Inc.*, STB Finance Docket No. 34310 (STB served February 14, 2003) at 2. See also, *Granite State Concrete Co., Inc. and Milford-Bennington Railroad Company, Inc. v. Boston and Maine Corporation and Springfield Terminal Railway Company*, STB Docket No. 42083 (STB served September 15, 2003) at 6 (“Here, BM/ST maintains that it offered to serve Granite State directly but that Granite State declined this offer”). CORP has kept the Siskiyou subdivision open. CORP remains ready, willing and able to provide service to the Shipper Petitioners. Upon a reasonable request for service, CORP will provide reasonable service at the current rate. If Shipper Petitioners believe that CORP’s rates are unreasonable, they can seek appropriate relief from the Board.

The Board has not found service to be inadequate where there was a failure to show service failures (*American Plant Food Corporation—Alternative Rail Service—Line of Texas Northeastern Railroad*, STB Finance Docket No. 33795 (STB served December 7, 1999) at 2-3). The Board also declined to enter an emergency service order because a reduction of service from three times to two times one day per week

does not constitute an emergency as contemplated by 49 U.S.C. 11123(a) or a substantial material deterioration of service as contemplated by 49 CFR part 1146 as a basis for the extraordinary relief available under those provisions. At least insofar as the request for emergency action is concerned, the record shows that substantial traffic continues to move and that M-B appears to have the ability to increase its service by commencing operations earlier in the morning.

Granite State Concrete Co., Inc. and Milford-Bennington Railroad Company, Inc. v. Boston and Maine Corporation and Springfield Terminal Railway Company, STB Docket No. 42083 (STB served September 15, 2003) at 6. There has been no service failure by CORP. At the end of January and beginning of February, CORP was unable to provide service on the Siskiyou Subdivision because of snow storms that blocked CORP's track. It took CORP four days to plow the line so trains could pass. Once the track was passable, CORP ran extra trains for RFP and TPC and made an extra switch for RFP to clear any backlog. Instead of this being a service failure, CORP went the extra mile to provide necessary service to its shippers.

The Board denied a request for expedited relief for service emergencies because "the record here suggests that, ultimately, Floyd Trucking has other transportation alternatives and has chosen not to use rail service because of the cost." *Pyco Industries, Inc.—Alternative Rail Service—South Plains Switching, Ltd. Co.*, STB Finance Docket No. 34802 (STB served January 26, 2006) at 4. CORP has explained that there are alternate rail routings to serve the Shipper Petitioners that they have not used. Moreover, CORP is still ready, willing, and able to provide reasonable service on the Siskiyou subdivision upon reasonable demand at the current rate. As CORP stated in the December 13 letter, it remains willing to discuss service needs with the Shipper Petitioners. Finally, RFP and TPC have decided to use trucks as alternative service, even though CORP's service is still available. Indeed, TPC owns a trucking company that claims to be able to "provide a cost-effective solution to any shipping challenge for any goods, to any destination in North America." RFP and TPC have found one form of alternate transportation and have others available to them. But, they have voluntarily decided to divert their traffic from CORP, obviously because they do not want to pay the rate CORP set.

The Board has also concluded that delivery that takes somewhat longer than the 1-2 days the shipper required for delivery also does not necessarily show that the incumbent carrier's service is inadequate and dissatisfaction with the overall new routing is insufficient justification for a grant of alternative service relief. *Pioneer Industrial Railway Co.—Alternative Rail Service—Central Illinois Railroad Company*, STB Finance Docket No. 34917 (STB served January 12, 2007) at 9-10. CORP had been unable to handle all of the traffic tendered to it everyday by RFP and TPC because it did not have enough locomotives to pull the train over the Siskiyou Pass and provide sufficient braking on the down hill ride for all the cars tendered. However, CORP did come back within several days to move those cars to destination. According to the Train Chart, only twice did loads wait as long as five days. Otherwise, loads left on Tuesday were handled on Thursday and CORP ran extra trains to pick up other loads. But these delays do not prove inadequate service, especially in light of the extra trains that CORP ran to clear the delayed traffic.

CORP has not withdrawn from service between Black Butte and Dillard. Instead, the Shipper Petitioners have stopped using CORP's rail service and diverted their traffic to truck. CORP operates between Montague and Black Butte and between Ashland and Dillard. CORP would operate between Montague and Ashland if it were tendered traffic.

Against this background of precedent, CORP's actions, and Shipper Petitioners' actions, it is clear that Petitioners' have not met the requirements of section 1146.1(a) for an emergency service order.

To the extent not addressed above, CORP will address the specific claims made by Petitioners.

1. Suburban Propane, LP (“SP”). SP states that it receives 10-20 carloads of propane per year at Yreka, CA from the YWRC. SP claims that when CORP altered its schedule to reduce service from five to two days per week that SP has experienced delays and a lack of switches from CORP at Montague.

SP has not demonstrated that CORP’s service is inadequate. SP does not indicate a need for specific performance from CORP. Indeed, SP does not even allege that it ships over CORP’s line between Montague and Ashland. SP could also avail itself of the routing from interchange with UP at Black Butte over CORP to Montague. SP does not claim it has been harmed or quantified that number of service issues.

SP has **not** demonstrated that over an identified period of time, there has been a substantial, measurable deterioration or other demonstrated inadequacy in rail service provided by CORP. SP is not entitled to emergency service under section 1146.1(a) from WTL or any other railroad.

2. Cowley D&L, Inc. (“CDL”). CDL is located at Grenada, CA on CORP. CDL claims that it 15-20 carloads per year of dry fertilizer from Idaho and Canada. CDL claims that service twice per week results in the bunching of rail cars. CDL does not explain how this bunching occurs when it receives only 15-20 cars per year and CORP has at least 104 service dates (twice per week at minimum for 52 weeks) to drop off loaded cars and pick-up empty cars. CDL does not tell the Board that it receives these 15-20 cars in one or two shipments or that it has limited storage capacity.

CDL has **not** demonstrated that over an identified period of time, there has been a substantial, measurable deterioration or other demonstrated inadequacy in rail service provided

by CORP. CDL is not entitled to emergency service under section 1146.1(a) from WTL or any other railroad.

3. Sousa Ag Service (“SAS”). SAS states that it receives fertilizer at Montague from Texas and Idaho. However, SAS does not quantify the volume of fertilizer it receives. Nor does SAS state that its shipments traverse CORP’s line between Eugene (north of Dillard, where traffic must enter CORP’s line unless it is received at Black Butte) and Montague. SAS does not even indicate that it has incurred any traffic delays, car bunching or any other problems.

SAS has **not** demonstrated that over an identified period of time, there has been a substantial, measurable deterioration or other demonstrated inadequacy in rail service provided by CORP. SAS is not entitled to emergency service under section 1146.1(a) from WTL or any other railroad.

4. Timber Products Company, LC (“TPC”). TPC is located at Yreka, CA and directly served by YRWC. Even though TPC is the most vociferous of the Shipper Petitioners it is also surprisingly silent on the volume of traffic that it has shipped in the past and requires to be shipped in the future.

TPC’s allegation of inadequate service is based upon: (1) a car supply issue in the Spring of 2007; (2) a reduction of the number of interchanges between CORP and YWRC in the summer of 2007 from six per week to four to five; (3) unquantified bunching of cars, bottlenecks, and lack of empty cars delivered to unknown locations which CORP cannot respond to since TPC has not provided any specific information; (4) CORP’s December 13, 2007 letter; (5) disruption of service between January 31, 2008 and February 7, 2008, during a blizzard that closed the Siskiyou Pass from February 3 to 7; (6) TPC’s voluntary diversion of traffic to trucks;

(7) cars left at Montague for the next train because CORP's trains could not haul all of the cars tendered by shippers and therefore had to attempt to equitably handle cars; (8) unspecified congestion at TPC's mills; and (9) increased cycle time per car.

CORP has increased its rates to meet the market. However, CORP imposed an artificial cap on its rate to ensure that the rate did not exceed 180 percent of CORP's revenue to variable cost ratio. CORP contends that its rate is set to meet the market and to be reasonable. TPC has determined that by voluntarily using its subsidiary trucking company, TP Trucking, TPC will receive a better rate than offered by CORP. Hence TPC's decision is based on rates and therefore, TPC is not entitled to emergency service since CORP would be providing adequate service if TPC had not voluntarily decided to divert its traffic. See *KJRY-TPW* at 6.

(i) Spring 2007 car supply. UP is responsible for chip car supply at Yreka. CORP does not control the car supply and only supplies the cars made available by UP. Other than for the spring of 2007 TPC does not contend that there are further car supply issues. This is not a service disruption over "an identified period of time."

(ii) Summer 2007 interchange with YWRC. CORP reduced the number of interchanges with YWRC because of a decline of business. CORP adjusted the number of days per week it operated to reflect the reduction in traffic, which was caused by the shippers at Montague and on the YWRC.

(iii) Bottlenecks, bunching and lack of empty cars. TPC's mill at Medford, OR only has room for the placement of two cars. When Corp has more than two cars, it places the extras in its yard. If the two cars are placed at TPC in the evening, CORP performs a second switch the next morning to remove the empty cars and deliver the loaded cars. CORP has

tried to assist TPC by providing a second switch as needed. CORP provided TPC with more than adequate service.

(iv) CORP's December 13, 2007 letter. CORP has fully explained the intent and content of the December 13 letter above. CORP reduced service, but as shown on the Train Chart, provided additional service to clear backlogs of cars. Only in two instances did cars wait up to five days. Based on the equipment required to cross the Siskiyou Pass and the equipment available, CORP provided reasonable and adequate service to TPC under the December 13 letter.

(v) Disruption of service between January 31, 2008 and February 7, 2008. TPC fails to inform the Board that CORP's service between January 31 and February 7, 2008 was disrupted because of snow in the Siskiyou Pass. The snow storms not only closed the rail line, but also I-5. CORP operated snow plows for four days to clear the Siskiyou Pass, and twice ran extra trains to clear any backlog. Considering the weather, CORP provided reasonable and adequate service to TPC between January 31 and February 7, 2008.

TPC's failure to mention the snow storm raises questions as to what additional facts TPC has failed to divulge that are adverse to its claim that CORP is not providing adequate service. One of those facts is TPC's the voluntary decision to divert all of its traffic to its subsidiary trucking company, which as explained above, claims to be able to solve any and all logistical problems.

(vi) TPC's voluntary diversion of traffic to truck. TPC's decision to divert its rail traffic from CORP to truck was voluntary. Indeed, TPC diverted the traffic to its own subsidiary trucking company, TP Trucking, which had provided service to TPC at

Montague before CORP resumed service during the 199-2000 period. TPC complains that CORP's new rail rates are higher than trucking rates, but does not provide the trucking rates. Moreover, because TP Trucking is a subsidiary of TPC, it is likely that TPC is receiving favorable rates, or that the rates are being returned to TPC in inter-company transfers. It is apparent that TPC's decision to divert traffic to its subsidiary trucking company was based on economics.

It is also disingenuous of TPC to complain that its subsidiary trucking company must make some empty back hauls, while ignoring the fact that TPC wants CORP to make all empty back hauls over the Siskiyou Pass to supply cars, without any compensation other than that paid for the loaded move.

TPC's voluntary diversion of its traffic to truck is not evidence that CORP's service was inadequate, merely that TPC made an economic decision.

(vii) Cars left at Montague. There is a limitation of 37 cars on the number of loaded cars that CORP can carry over the Siskiyou Pass in a train with five locomotives. Once CORP has built a train up to the limit, it cannot carry any more cars. TPC and RFP both complain that CORP did not always take all of their cars on the train regularly scheduled for Tuesday or Thursday. When CORP left loaded cars behind because of physical limitations, it ran extra trains to clear the back log. At no time has TPC stated that it needed to stop production because of delivery delays. CORP provided service beyond two days per week when it was necessary, in compliance with the December 13 letter. Due to the physical limitations of operations over the Siskiyou Pass and the extra trains used to clean up back logs, CORP's service was reasonable and adequate.

(viii) Congestion at TPC mills. This argument is inconsistent with TPC's earlier argument that CORP is not bringing all of TPC's cars from Montague to its mills. TPC has created a scenario where CORP's service will never satisfy TPC. If CORP takes all of the cars from Montague to TPC's mills, then there will be too many cars at the mills. But, if CORP delivers the numbers of cars to the mills that they can handle, then CORP is not picking up all of the cars at Montague. This is an operational issue that TPC must resolve. If TPC were using CORP service, CORP would be glad to explore whether the problem could be resolved through TPC or YWRC blocking of cars or TPC adding track at various TPC locations. However, TPC's problems are not the result of CORP's service, but of TPC's decision not to address its internal problems.

Moreover, CORP has described the additional service provided at Medford to relieve congestion at TPC's mills.

(ix) Increased cycle time per car. TPC claims that it desires a specific cycle time for each car. As the Board has said, the level of service desired by a shipper is not the same as adequate service. *Expedited Relief*, at 974. CORP is required to provide reasonable service upon a reasonable request. The special service that TPC seeks goes beyond reasonable service. In order to obtain special service, TPC could have entered a rail transportation contract. However, TPC was not willing to pay for the special service. TPC offered a 25 percent increase in the amount it was willing to pay CORP, while CORP was seeking a 350 percent increase, according to TPC. *Petition, Hart VS* at 8. This is clearly a rate dispute that is not resolved by the short term solution of emergency service. See, *KJRY-TPW* at 6.

TPC has **not** demonstrated that over an identified period of time, there has been a substantial, measurable deterioration or other demonstrated inadequacy in rail service provided by CORP. TPC is not entitled to emergency service under section 1146.1(a) from WTL or any other railroad.

5. Roseburg Forest Products Co. (“RFP”). RFP represents that it ships 23-25 cars per day from Weed. But 15 of those cars (14 chip cars and 1 centerbeam car for peeler cores) are routed south from Weed for interchange to UP at Black Butte. Petition, Jeffers VS at 3. RFP actually complains that it is not receiving adequate service for the transportation of eight to ten carloads of logs and veneer per day. RFP contends that it could tender additional traffic to CORP “contingent upon getting additional equipment” and “if we can work out the logistics of switching, car supply, etc.” Petition, Jeffers VS at 3. RFP was offering to increase traffic to CORP if RFP could obtain a specific level of service. Prior to May 14, 2008, CORP provided service to RFP pursuant to a rail transportation contract. CORP and RFP diligently negotiated in an attempt to reach a new contract, but could not come to terms on the rates. See Petition, Jeffers VS at 6. RFP terminated those discussions by letter dated April 18, 2008. See Exhibit 1 to Mr. Kerr’s verified statement.

CORP’s service to RFP prior to May 14, 2008 was governed by a contract. Compliance with the contract was to be governed by the terms of the contract and not by whether CORP was providing adequate service. Any service issues arising prior to the end of the contract were to be resolved pursuant to the contract, and not by the Board. CORP urges the Board not to consider any service claims made by RFP prior to May 14, 2008 in determining whether CORP’s service had become inadequate because service was governed by the contract. Since all of the service

events described by RFP occurred prior to termination of the contract, CORP urges the Board to conclude that RFP has not introduced any evidence that CORP's service was inadequate.

As with TPC, RFP is concerned with the rates that CORP was proposing in the contract and the new rates that CORP adopted. CORP has increased its rates to meet the market. However, CORP imposed an artificial cap on its rate to ensure that the rate did not exceed 180 percent of CORP's revenue to variable cost ratio. CORP contends that its rate is set to meet the market and to be reasonable. RFP disagreed with the rates CORP proposed in the contract negotiations (Petition, Jeffers VS at 6) and has voluntarily not tendered any traffic to CORP since CORP increased its rates (Petition, Jeffers VS at 6). RFP has determined that voluntarily using a trucking alternative will result in a better rate than offered by CORP. Hence RFP's decision is based on rates and therefore, RFP is not entitled to emergency service since CORP would be providing adequate service if RFP had not voluntarily decided to divert its traffic. See *KJRY-TPW* at 6.

RFP further undercuts its argument that it requires emergency service by stating that it "has been able to continue to supply its mills by truck in recent weeks only because of the current very soft market conditions due to the severe downturn in housing starts." Petition, Jeffers VS at 7. RFP contends that it has voluntarily diverted its traffic to truck because of the rates charged by CORP. RFP does not require emergency service because it is unlikely that the housing market will turn around in the short term and RFP voluntarily decided to divert traffic to truck due to CORP's rates. The Board has stated that rate issues require long term solutions, not emergency service. See *KJRY-TPW* at 6. Furthermore, RFP has delayed its request for emergency service from the Board from April until August. If emergency service were required,

RFP would not have been able to wait over four months. The excuse that the search for an operator consumed that time period is not sufficient justification, if there truly was an emergency.

RFP has **not** demonstrated that over an identified period of time, there has been a substantial, measurable deterioration or other demonstrated inadequacy in rail service provided by CORP. RFP is not entitled to emergency service under section 1146.1(a) from WTL or any other railroad.

6. West Texas and Lubbock Railway Company (“WTL”). WTL relies upon its operation under an emergency service order for Pyco Industries over less than 14 miles of flat track in Texas as its justification for being able to operate over about 218 miles of a railroad in mountainous terrain. WTL also touts its ability to enter operating protocols under the emergency service order. WTL also suggests that it will use excess CORP employees to perform its operations.

WTL has not provided a full explanation and supporting evidence of how “alternative service would be provided safely without degrading service to the existing customers of the alternative carrier and without unreasonably interfering with the incumbent’s overall ability to provide service” as required by 49 C.F.R. §1146.1(b)(1)(c). Instead, WTL asks the Board to rely on its experience on a railroad less than five percent the size of its proposed operation on relatively flat terrain compared to difficult mountain terrain. WTL has not met the requirements of section 1146.1.

WTL also states that it will use surplus CORP train and engine personnel. There are no excess CORP engineers or trainmen available for WTL to use in serving between Black Butte

and Dillard. WTL is relying on personnel that are not available and therefore has again failed to meet the requirements of section 1146.1.

Mr. Ellis also touts his experience in the transition of operations from SPT to CORP in the areas of information technology (“IT”) and car supply. Emergency service in mountainous territory before the start of winter and during winter will require substantially greater experience than that limited to the fields of IT and car supply. WTL has not provided details of its operations and therefore again fails to meet the requirements of section 1146.1.

Finally, WTL relies on its ability to arrive at protocols for joint operations. CORP does not need to remind the Board that those protocols were not agreed to, but were imposed and enforced by the Board in several decisions. Only under CORP’s alternative is there a reasonable likelihood that protocols could be agreed upon without Board intervention, allowing a safe and expeditious transition.

WTL has failed to demonstrate in accordance with section 1146.1 that it can provide safe alternative service that would not interfere with CORP’s service.⁹

7. Petitioners have not met the discussion requirement. RFP and TPC relate discussions that they have had with CORP extending back to the spring of 2007. SP, CDL, and SAS do not recount any discussions. The discussions with RFP and TPC ended on April 18, 2008 when they terminated their contract discussions with CORP. See Exhibit 1 to Mr. Kerr’s verified statement. But those discussions that ended in April 2008 were discussions concerning CORP providing future rail service under contract. Service parameters were part of those

⁹ CORP will remain responsible for serving all shippers between Dillard and Black Butte that are not Shipper Petitioners.

negotiations, but the negotiations were not the type that the Board mandated as a condition precedent to relief in section 1146.1(b)(ii).

RFP and TPC do not recount

Advance discussions between the parties are indispensable. They may help solve or ameliorate the service problems; narrow the issues in dispute; or, at a minimum, enable a more complete and informative record to be developed upon which we can assess the situation and the proposal for relief. Thus, it is in all parties' interests to engage in full, good faith discussions.

Expedited Relief at 977. Instead they recount contract negotiations and discussions in early 2008. More egregious is the fact that Petitioners have not conducted recent negotiations with CORP. Once Petitioners diverted their traffic to truck, their communication with CORP about operations over the Siskiyou Pass ceased. Instead of pursuing a solution with CORP, Petitioners waited over four months and then out of the blue filed the Petition with the Board, denying CORP the advance notice that the Board intended the discussions to provide. *Id.* at 972.

Petitioners have failed to engage CORP in the advance discussions required by the Board and are therefore not eligible for emergency service.

8. Summary. Petitioners have failed to meet the criteria of section 1146.1. SP, CDL, and SAS have not even attempted to prove that they did not receive adequate service. They have not engaged in discussions with CORP. RFP and TPC are unsatisfied with the rates that CORP sought in contract negotiations. Rates are the sole reason that RFP and TPC are seeking emergency service. But, as the Board has often said, emergency service is not a remedy for rate issues. WTL has not provided any plan for operations. Instead, WTL relies on emergency operations it performed on level terrain for a line less than five percent the length of

the line involved here in mountainous terrain. WTL relies on unavailable CORP employees and an unknown source of locomotive.

Petitioners have **not** demonstrated that over an identified period of time, there has been a substantial, measurable deterioration or other demonstrated inadequacy in rail service provided by CORP. Petitioners are not entitled to emergency service under section 1146.1(a) from WTL or any other railroad.

II. CORP's negotiation proposal.

CORP has demonstrated that the Petitioners are not entitled to emergency service under section 1146.1(a). However, CORP is willing to voluntarily enter an agreement with WTL for WTL to provide service between Black Butte, CA and Medford, OR. North of Medford, CORP will either provide haulage for WTL or will interchange traffic for delivery to Dillard, Riddle, Grants Pass, and White City.

In return for permitting WTL to operate on CORP's property, CORP will require WTL to pay CORP compensation pursuant to the Board's formula developed in *Pyco Industries, Inc.—Alternative Rail Service—South Plains Switching, Ltd. Co.*, STB Finance Docket No. 34889 (STB served January 11, 2008) at 6, which provides that:

compensation should consist of three components: (1) the variable cost incurred by the owning carrier as a result of the tenant carrier's operations over the owning carrier's tracks; (2) the tenant carrier's proportionate share of the track's maintenance and operation expenses; and (3) an interest or rental component designed to compensate the owning carrier for the tenant carrier's use of its capital dedicated to the track.

In addition to compensation, CORP will require that WTL agree to accept liability for any harm caused by its operations and also provide sufficient insurance to insure that CORP is protected. Because of the difficult terrain involved in the operations between Black Butte and

Medford, CORP would require WTL to ensure that its engineers are qualified to operate on the territory and that it has appropriate locomotives to perform the service (CORP expects to be compensated for any costs it occurs in qualifying WTL engineers or other personnel). Finally, CORP believes that the agreement should contain standard industry terms for other matters, including advance payment of rental from WTL to CORP.

As WTL notes (Petition, Ellis VS at 5), it is familiar with the RailAmerica railroads. Through its parent RailAmerica, CORP is also familiar with the proclivity of WTL's parent corporations to fall significantly behind on their payments. RailAmerica has voluntarily sold several properties to Mr. Ellis and the Iowa Pacific Holdings, LLC ("IAPAC") and Permian Basin Railways, Inc. ("Permian"). As part of the payment in these transactions, RailAmerica has accepted notes from Mr. Ellis, IAPAC, and Permian (the "Buyers") for the properties acquired, including WTL. Under the notes, the Buyers are required to make monthly payments. However, the Buyers have developed the habit of falling behind in their payments and then obtaining sufficient funding to become current. Presently the Buyers are more than three months overdue in their payments. Resolution of the overdue payments is a matter between RailAmerica and Buyers. However, in this transaction, RailAmerica, through CORP has no desire to become WTL's banker and have to await WTL's late payments as it does today. This is especially true since there are no WTL assets available to secure any debt to CORP and the operations would be of short duration. CORP does not want to be left in the position of suing WTL for compensation that the Board has ordered WTL to pay. Therefore, CORP contends that any service agreement

between CORP and WTL should require WTL to pay rental in advance and should require IAPAC, Permian, Mr. Ellis, RFP, and TPC to guarantee WTL's payments.¹⁰

In order to implement this proposal, CORP requests the Board to hold this proceeding in abeyance after Petitioners file their rebuttal to give the parties and opportunity to negotiate. Petitioners' rebuttal is due on September 8, 2008. CORP suggests that the parties report the status of negotiations to the Board on September 18, 2008 and be prepared to come to the Board's offices on September 19, 2008 for mediation if there are any unresolved issues.

In the event that negotiations and mediation fail, the Board will still be able to decide whether petitioners have justified emergency service. In the event that negotiations and mediation fail, CORP adopts the arguments made here in opposition to the Petition.


¹⁰ RFP and TPC are logical parties to guarantee the payments by WTL since they will receive the most benefit from WTL's service and are likely to exert substantial influence over WTL as its two largest shippers.

CONCLUSION

CORP respectfully requests the Board to hold this proceeding in abeyance to permit CORP and WTL to negotiate an agreement for WTL to provide rail operations along the lines that CORP has outlined above. In the event that the negotiations and mediation before the Board fail to result in short term operations by WTL, CORP respectfully requests the Board to deny the emergency service sought by Petitioners because they have failed to demonstrate that over an identified period of time, there has been a substantial, measurable deterioration or other demonstrated inadequacy in rail service provided by CORP.

Respectfully submitted,

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Dated: September 3, 2008

CERTIFICATE OF SERVICE

I hereby certify that I have caused the foregoing document to be served electronically and
by first class mail postage prepaid upon:

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Louis E. Gitomer
September 3, 2008

EXHIBIT A- VERIFIED STATEMENT OF PATRICK KERR

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 35175

ROSEBURG FOREST PRODUCTS CO., TIMBER PRODUCTS COMPANY, LC,
SUBURBAN PROPANE, LP, COWLEY D&L, INC., SOUSA AG SERVICE, AND
YREKA WESTERN RAILROAD COMPANY–ALTERNATIVE RAIL SERVICE–
CENTRAL OREGON & PACIFIC RAILROAD, INC.

Ex Parte No. 346 (Sub-No. 25C)

RAIL GENERAL EXEMPTION AUTHORITY–PETITION FOR PARTIAL
REVOCATION OF COMMODITY EXEMPTION–LUMBER OR WOOD PRODUCTS

VERIFIED STATEMENT OF PATRICK KERR

My name is Patrick Kerr. I am Director of Marketing for the Central Oregon & Pacific Railroad, Inc. (“CORP”). In my position I am involved in all marketing activities with CORP’s customers, including negotiation of contracts. In addition, since CORP is a short line, I am also familiar with CORP’s operations.

The purpose of this statement is to briefly review the contract negotiations between CORP and Roseburg Forest Products Co. (“RFP”) and Timber Products Company, LC (“TPC”), to explain the weather problems that CORP faced this past winter, explain why CORP changed its operations over the Siskiyou mountain pass, and provide data concerning CORP’s changed operations with an explanation of why this service is adequate.

CORP and RFP had a rail transportation contract that expires on May 14, 2008. Until termination of the contract, all of CORP’s service to RFP was governed by the

terms of the contract. In late 2007, CORP began negotiations with to renew the contract with RFP. At about the same time CORP began negotiating a contract with TPC.

Negotiations were terminated by both RFP and TPC. See letters in Exhibit 1 attached hereto. It is clear to me that negotiations failed because the parties could not agree upon the rates that CORP would charge for the service to be provided.

RFP and TPC are the two largest shippers on the portion of the CORP that must traverse the Siskiyou mountain pass. RFP ships from Weed, CA to its mills at Riddle and Dillard, OR. CORP handles loaded cars north and returns empty cars south over the mountain as a non-compensated back haul. TPC ships from Yreka, CA on the Yreka Western Railroad Company to Montague, CA for interchange to CORP and then delivery to its mills at Medford and Grants Pass, OR, and to interchange with the WCTU Railway Company at White City, OR. AS with RFP, for TPC, CORP handles loaded cars north and returns empty cars south over the mountain as a non-compensated back haul.

Having failed to enter a contract with either RFP or TPC, CORP adopted new tariff rates, effective May 6, 2008. See Exhibit 2 attached hereto. TPC voluntarily stopped shipping over the Siskiyou mountain pass on CORP on April 15, 2008, because the new rates were too high. TPC diverted its traffic to TP Trucking, TPC's subsidiary trucking company. RFP voluntarily stopped shipping over the Siskiyou mountain pass on CORP on May 6, 2008 and voluntarily diverted its traffic to truck because RFP believed that the new CORP rates were too high.

In light of the failed contract negotiations, CORP adopted rates that CORP believes reflect the market for moving timber products, which are a low value commodity, through the difficult terrain of the Siskiyou mountain pass. CORP imposed a

constraint on the new rates by limiting them to a revenue to cost ratio of 180 percent, according to CORP's analysis.

Operations over the Siskiyou mountain pass are very difficult and require the commitment of substantial assets. Between Montague, CA and Ashland, OR, CORP has two of the most severe grades on the Siskiyou Subdivision. The steepest part of the grade over the Siskiyou Pass is between 3.6 and 3.8 percent. Over Bailey's Hill, the grade is about 3.0 percent. However, a train consist must be prepared to operate over the steepest grade. The grade over the Siskiyou Pass is one of the most severe grades, if not the most severe grade, in the United States.

The grade begins at milepost 427 near Medford, peaks at milepost 412, is the same on the downside of the Siskiyou Pass to milepost 402, where the grade up Bailey's Hill begins, peaks at milepost 399 and continues downhill at the same grade to milepost 395.

Operations are usually made with a five locomotive consist, which generally contains three SD40 and two GP38 locomotives. An SD40 locomotive can generally pull up to seven loads on the Siskiyou Pass grade, and a GP 38 locomotive can generally pull up to five loads on the Siskiyou Pass grade. Another constraint on mountain operations is the draw bar trailing tonnage limit on the last locomotive of the consist, which is about 4,000 tons or 37 loaded cars depending on the per car weight. CORP does not have extra locomotives to substitute when one locomotive is lost due to mechanical problems or for long term maintenance. Once the consist of locomotives is reduced, the number of loaded cars that can be hauled is also reduced. If CORP were to keep extra locomotives

available, but unused, it would expect the shippers to pay for that special inefficient service.

Not only does CORP face extreme operating conditions, but because of the altitude of the line, CORP faces extreme winter weather. Between January 31, 2008 and February 7, 2008, four snow storms caused closure of the Siskiyou pass. During those storms, CORP ran its snow plow four times to clear the track over the Siskiyou pass and Bailey's Hill. See two pictures of CORP's snow plow in Exhibit 3. However, eventually, CORP ran out of space to push the snow because the cumulative snowfall exceeded four feet. See newspaper articles about the storm attached as Exhibit 4.

Despite the storms, CORP managed to run one train north from RFP and TPC on February 2, and then ran additional extra trains on February 5 (one north and one south). An extra switcher was run at Weed, CA on February 8. These trains were run in accord with the December 13, 2007 letter that CORP sent to its shippers using the Siskiyou pass.

The December 13 letter explained that CORP was incurring problems in operating over the Siskiyou pass and that costs were exceeding revenues. In order to address the problem, CORP proposed to reroute traffic south of the Siskiyou pass to interchange with UP at Balck Butte, CA for delivery to CORP at Eugene, OR for transportation south on CORP's line to the destinations served by service over the Siskiyou pass. CORP continued to offer service over the Siskiyou pass for limited traffic two days per week – Tuesday and Thursday. In addition, CORP committed to modify its schedule as appropriate for the traffic. Today, CORP remains ready, willing and able to provide reasonable service upon reasonable request at the current rates.

Attached hereto is Exhibit 5, which summarizes the operations over the Siskiyou pass from January 15, 2008, when the change in operations began until May 6, 2008. The Train Chart identifies the date and day of operations. Information on the trains includes the number of locomotives used, the number and type of move (loaded or unloaded) northbound or south bound, the number of cars left behind because of physical restrictions, and any comments. CORP operated two days per week, but when there was a back log of traffic, CORP ran extra trains to clear the back log, as it had offered in the December 13 letter.

Based on my interaction with RFP and TPC, they have stopped using CORP's service over the Siskiyou pass for one reason only, they believe that the rates are too high. CORP has continued to provide reasonable service on reasonable demand. CORP remains ready, willing, and able to provide reasonable service on reasonable demand today. The only reason that no trains run over the Siskiyou pass today is because RFP and TPC voluntarily diverted the traffic to trucks.

VERIFICATION

I, Patrick Kerr declare under penalty of perjury that to the best of my knowledge the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this Verified Statement. Executed this 3rd day of September 2008.



Patrick Kerr

EXHIBIT 1-LETTERS TERMINATING CONTRACT NEGOTIATIONS

April 18, 2008

Mr. Patrick Kerr
Manager, Marketing and Sales
Central Oregon and Pacific Railroad
333 S.E. Mosher Avenue
Roseburg, OR 97470

Re: Response to CORP counter-proposal letter dated April 15, 2008

Dear Patrick,

We appreciate the opportunity to have received and discussed your latest counter-proposal this past Tuesday. We have had the opportunity to thoroughly review and analyze all aspects of the counter-proposal.

Our analysis and conclusion of your latest proposal is that we firmly believe the rate increases you seek are both unreasonable and unrealistic with regard to the actual operating costs and capital requirements to operate the Siskiyou line. The proposed rate increases of approximately 150% are untenable, and that the CORP would reap excessively unfair operating margins and windfall capital funding that far exceed the monies needed to maintain the line in safe and efficient operating conditions, both currently and in the future.

Furthermore, we are disappointed that CORP continues to provide no reasonable justification for their proposed rate increases or the deferred capital maintenance funding you are now asking the shippers to fully fund. In fact, it is clear that under your rate proposal, CORP would receive far more capital funding from us and other shippers for current and future capital investment requirements that is actually required, with no shared investment by CORP. We refuse to continue to endure the subpar service levels, reduced and sporadic service schedules since January 1 of this year, and now these unreasonable and excessively exorbitant rate structures.

Consequently, Timber Products Company is unable and unwilling to agree to these rates and terms. Based on the enormous gap between our respective company's proposals and counter-proposals, we are discontinuing further negotiations at this time. It is our understanding from the meeting last Tuesday that we will be able to ship on the Siskiyou until May 6, 2008 at the existing rates (including the new fuel surcharge) and service schedules. After that time, the tariff rate schedule provided to us on April 15 would take effect.

Sincerely,



Erik J. Vos
Business Analyst and Company Spokesperson



April 18, 2008

Mr. Patrick Kerr
Manager of Marketing and Sales
Central Oregon & Pacific Railroad
333 S.E. Mosher Avenue
Roseburg, OR 97470

Dear Patrick:

After several weeks of negotiating, Roseburg Forest Products find that little or no progress has been made toward reaching a reasonable contractual agreement and rate structure for the continuation of rail shipments across the Siskiyou Line. Based on how far apart we are from your last offer provided to us on April 15, 2008, we are formally rejecting that offer and discontinuing further negotiations.

It is our understanding from the meeting last Tuesday that we will be able to ship on the Siskiyou until May 6, 2008 at the existing rates and service levels. After that time, the schedule provided to us on April 15 takes effect.

Very cordially,

ROSEBURG FOREST PRODUCTS

Ray Barbee
Vice-President Sales and Marketing

cc: Mr. Allyn Ford

EXHIBIT 2-TARIFF EFFECTIVE MAY 6, 2008

CENTRAL OREGON & PACIFIC RAILROAD, INC.

A RailAmerica Company

**Freight Tariff CORP 8000.02**

PUBLIC PRICE LIST
CONTAINING PRICES ON LUMBER AND FOREST PRODUCTS

APPLICATION

This publication applies to only movements local to Central Oregon & Pacific Railroad.

Movements are subject to RA 1000, CORP 9002 and other public tariffs as established, by CORP and RailAmerica, Inc., for the movement of railcars.

PRICE LIST

ORIGIN	DESTINATION	PRICE PER CAR
WEED, CA	MEDFORD, OR	\$ 1,339
WEED, CA	GRANTS PASS, OR	\$ 1,445
WEED, CA	DILLARD, OR	\$ 1,742

TERMS AND CONDITIONS

EQUIPMENT TYPE	Price applies in Box Cars Not Exceeding 5600 Cubic Feet
	Price applies in Box Cars Exceeding 5600 Cubic Feet not Exceeding 7000 Cubic Feet
	Price applies in Box Cars Exceeding 7000 Cubic Feet
	Price applies in Flat Cars Not Exceeding 63 ft
	Price applies in Flat Cars Exceeding 63 ft not Exceeding 74 feet
TERMS AND CONDITIONS	Payable in U.S. funds.
	No transit or stopoff allowed.
	Diversion and Reconsignment not included in the price.
	Price applies only when shipped on one day from one consignor at one location at one origin via one route to one consignee at one location at one destination at one time on one bill of lading.
	Shipments reaching destination but not unloaded for reasons other than carrier error may be returned to original shipping point via reverse route at the same price or at the price normally applicable for such return movements, if lower.
	Prices subject to rules and conditions of Railway Equipment Register, STOC 6001, OPCL 6000, UFC 6000 and CSXT 8100 unless otherwise noted.
APPLICABLE STOC(S)	Carriers' maximum liability for lading loss or damage will not exceed \$100,000 per carload.
	24-xxx-xx

ISSUED: MAY 27, 2008

EFFECTIVE: MAY 28, 2008

ISSUED BY:

Central Oregon & Pacific Railroad, Inc
333 S.E. Mosher
Roseburg, OR 97470 USA

EXHIBIT 3-PICTURES OF SNOW PLOW



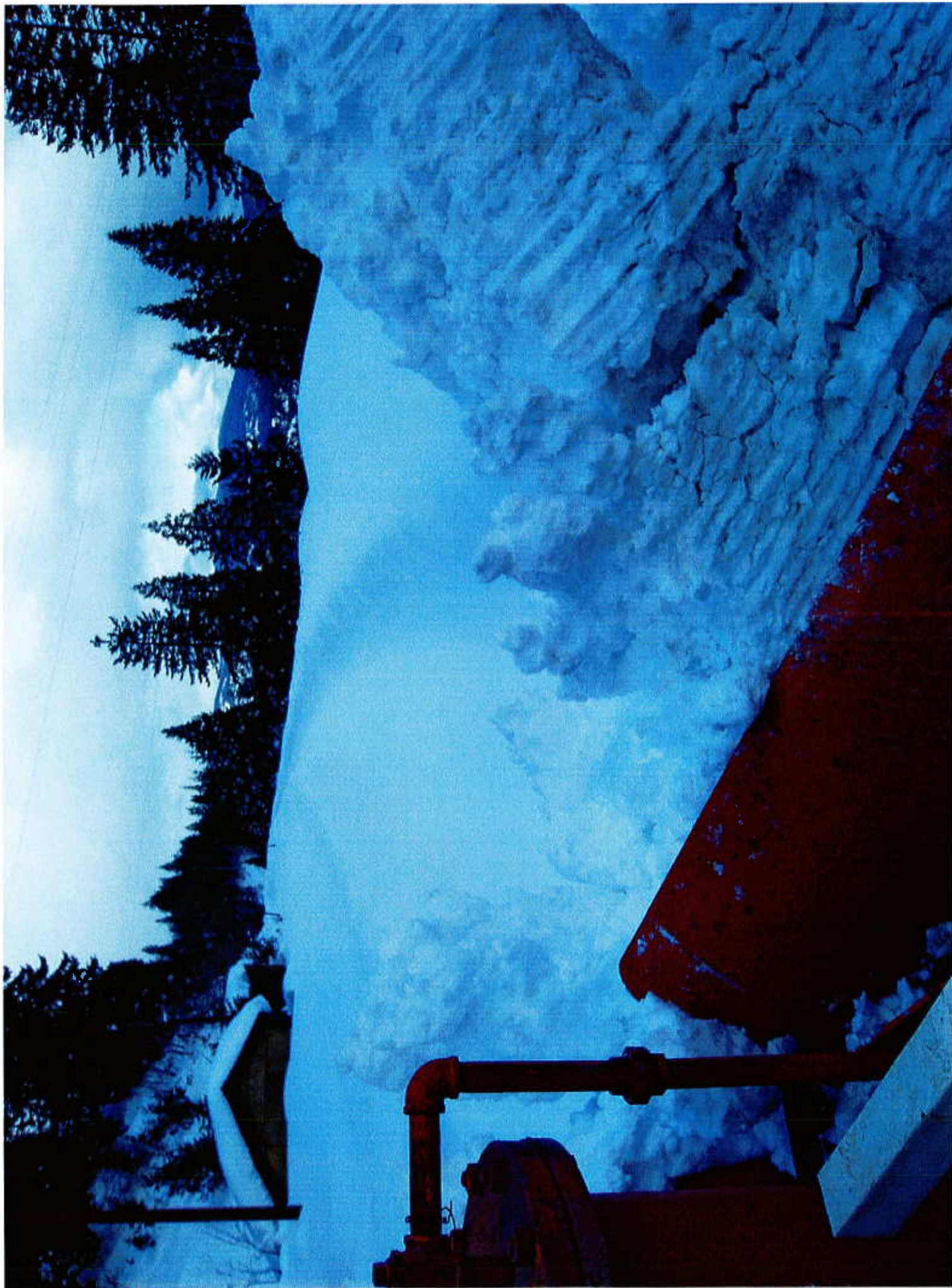








EXHIBIT 4-SNOW STORM NEWSPAPER ARTICLES



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Highway delay: Snow closes Interstate 5 for second time this week

By [Dylan Darling](#) ([Contact](#))
Friday, February 1, 2008

Long-haul trucker Robert Angel had planned to have his truckload of canned soup in Grants Pass, Ore., by 3 p.m. Thursday.

Instead, he sat in his parked big rig, catching up on paperwork while waiting out a four-hour closure of Interstate 5 in north Redding.

"There's a guy in Grants Pass who is waiting on this," he said.

Wintry weather again hit Interstate 5 between Redding and the Oregon border Thursday, along with other north state highways. Road officials closed the West Coast's main traffic artery to big rigs for the second time this week because of snow. Angel was among scores of truckers who pulled off the freeway until the weather improved.

Along with making highway travel difficult, the storm caused power outages around Shasta County, with about

Photo Gallery

HIGHWAY DELAY



WEATHER WAIT: Trucks park on the side of northbound Interstate 5 near the Mountain Gate exit Thursday afternoon while the freeway was closed because of winter weather. [View gallery »](#)

[Enlarge photos](#) | [View thumbnails](#)

STORY TOOLS

[E-mail story](#)

3,000 Pacific Gas and Electric Co. customers losing electricity Thursday afternoon, said Paul Moreno, PG&E spokesman. The outages included areas in west Redding, Happy Valley, Lakehead, Lake Britton, Whitmore and along Highway 299 east of Bella Vista. An additional 800 in Gerber in Tehama County were without power.

"All outages appear to be weather-related and caused by winds and heavy rains, in some cases bringing tree branches into lines," he said.

By Thursday evening, the outages were limited to 942 customers in Lakehead and Moose Camp near Burney, Moreno said.

Heavy snow fell throughout the day, making images from traffic cameras dotting I-5 look like snow globes. The state Department of Transportation closed I-5 at 1 p.m. because of the snow and vehicle spinouts, said Michael Mayor, Caltrans spokesman.

"The last thing we want to do is shut it down," he said. With the storm starting to let up, I-5 was reopened about 5:15 p.m.

Angel said he felt the closure was the result of inexperienced truckers getting their rigs stuck, rather than due to the weather. Having driven a big rig since 1969, and having gone up and down I-5 since 1974, Angel said he could have made it to Grants Pass at his scheduled time given chains and a chance.

Making three round trips between Grants Pass and Modesto a week, he said this year is stacking up to be one of the worst for closures and chain restrictions.

"This year has been real bad," Angel said.

Snow on Thursday also briefly closed Highway 299 just west of Weaverville from about 3 to 3:45 p.m., cutting off the main route from Redding to the coast. Along with nearly a foot of snow in the mountains, the storm dropped almost an inch of rain at Redding Municipal Airport, according to the National Weather Service.

The next storm in line is expected to bring more snow to the mountains this weekend, with snow levels dropping to about 2,000 feet, said George Cline, forecaster at the weather service's Sacramento office. Today should be the calm before the storm, with a slight chance of rain for Redding and clouds building as the day wears on.

"Looks like we have a bit of a break until Saturday," he said.

Reporter Dylan Darling can be reached at 225-8266 or at ddarling@redding.com.

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Region's snow levels set records

Yet a longtime Prospect resident says he's seen higher in years past

By [Bill Kettler](#)

Mail Tribune

February 04, 2008 6:00 AM

If you think winter has been tough down here on the valley floor, you should talk to the folks in Prospect.

January storms brought Medford 6 inches of snow, but the little mountain town, some 1,200 feet higher, got nearly 5 feet for the month, and there was more than 2 feet on the ground at one time.

"It's beautiful if you like white," said Fred Wickman, owner of the historic Prospect Hotel. "I have enough snow here now that I'm probably good for the rest of my life. It's still up to mid thigh in the deeper spots."

A storm over the weekend knocked down trees along Highway 62 on the scenic corridor between Prospect and Union Creek, and Oregon Department of Transportation officials said the road will remain closed through Tuesday. Highway 62 is also closed through Crater Lake National Park.

The storm also forced closure of Highway 230 from Union Creek to the junction with Highway 138 until Tuesday, and a 21-mile section of Highway 138 west of the junction with Highway 97 also will be closed until Tuesday.

An ODOT worker was injured on Highway 62 Sunday when a fir tree struck his pickup. An air ambulance took 58-year-old Bert Fernandez to Rogue Valley Medical Center, where he was listed in good condition.

While Prospect's big winter has been something of a shock for newcomers like Wickman, it's nothing out of the ordinary for long-term residents like Paul Pearson, 86.

"This is about half as much as the biggest I've seen," Pearson said. "What's unusual is that we've had so many days of snowfall without interruption. We haven't had any large snowfall — always less than a foot — but it just doesn't quit."

All those storms have brought abundant snow all over the Southern Oregon Cascades and Siskiyou. The snow depth at the Siskiyou Summit (elevation 4,600 feet) on Jan. 31 was 65 inches, more than three times the average depth of 19 inches for the end of January, and the most ever measured at that site since record-keeping began in 1935. The water content of the snow (18.4 inches) also set a record: It was 347 percent of the end-of-January average.

Two other sites within a mile of the Mount Ashland summit had about 160 percent of average snow depth for the end of January and 140 percent of average water content, said Steve Johnson of the Rogue River-Siskiyou National Forest.

Johnson worked in blizzard conditions Thursday to measure the snow.

"It was quite a day, with snow falling at two inches per hour," Johnson said. "The road was like coming west in 1840."

As of Friday, Crater Lake National Park had received a total of 348 inches of snow since October, 65 inches more than the average, and 127 inches of snow were on the ground at park headquarters.

On Sunday, the Rogue and Umpqua basins had a combined average snow water content of 152 percent of normal, and every basin in Oregon had at least 100 percent of average snow water content.

By Sunday morning, the Mount Ashland ski area had received more than 240 inches of snow for the winter, 80 percent of its annual average of about 300 inches, and there are 10 weeks of skiing still to come.

Southern Oregon's cooler and wetter-than-normal January, and abundant snow across the Northwest, is consistent with what happens during "La Niña" events, when sea surface temperatures cool in the eastern equatorial Pacific Ocean, said Mike Johnson, a meteorologist at the National Weather Service office in Medford.

"In a strong La Niña, we end up with exactly what we're seeing right now," Johnson said.

La Niña is the opposite of El Niño, which occurs when sea surface temperatures rise, often bringing dry winters to the Pacific Northwest.

Some researchers believe the current La Niña will continue, Johnson said, which could mean more cold, gray, damp days in Medford and happy times for skiers and snowboarders.

Reach reporter Bill Kettler at 776-4492 or e-mail: bkettler@mailtribune.com

EXHIBIT 5-TRAIN CHART

Siskiyou Operations

Date	Day	No. Locom.	Northbound	Southbound	Left Behind	Comments
01/15/08	Tues	5	19 Lds	23 Mtys	0	Due to derailment on Yreka Western no cars I/C
01/17/08	Thurs	5	23 Lds 5 Mtys	24 Mtys	0	Due to derailment on Yreka Western no cars I/C
01/22/08	Tues	5	30 Lds	22 Mtys	0	
01/24/08	Thurs	5	28 Lds	7 Mtys	5 at Weed	Max Tonnage
01/29/08	Tues	4	23 Lds	33 Mtys	20 at MTG, 6 Weed	Lost 1-6 axle locomotive
01/31/08	Thurs					Snow Storm
02/01/08	Fri					Ran Snow Plow
02/02/08	Sat	4	19 Lds	0	0	Ran Extra to move left behind loads at Montague-1B/O
02/05/08	Tues					Ran Snow Plow
02/07/08	Thurs					Ran Snow Plow
02/08/08	Fri					Ran Snow Plow
02/08/08	Fri	5	30 Lds	33	5	Extra Train Ran due to snow and plowing Tue & Thurs
02/09/08	Sat					Extra Switcher at Weed to Spot RFP due to snow
02/12/08	Tues	4	22 Lds	7 Mtys	4	
02/14/08	Thurs	4	25 Lds	20 Mtys	0	
02/19/08	Tues	5	33 Lds	24 Mtys	9 Lds	
02/21/08	Thurs	3 UP's	49 Mtys			
02/21/08	Thurs	5	31 Lds	9 Mtys	8 Lds	CB train from UP due to UP slide on Kfalls line
02/22/08	Fri	3 UP's	5 Lds 51 Mtys			
02/25/08	Mon	3 UP's		7 Mtys		CB train from UP with 5 of 8 lds left on Thurs
02/26/08	Tues	5	31 Lds	26 Mtys	0	UP power returning to Black Butte
02/27/08	Wed	3 UP's		50 Mtys		
02/28/08	Thurs	6	30 Lds 10 Mty		0	CB train from UP due to UP slide on Kfalls line
						10 mtys were CB's from UP
03/04/08	Tues	5	28 Lds	1 Ld 29 Mtys	0	
03/06/08	Fri	6	33 Lds	16 Mtys	0	Extra unit from Medford
03/11/08	Tues	4	27 Lds	25 Mtys	7 Lds	
03/13/08	Thurs	4	27 Lds	17 Mtys	9 Lds	Swapped old loads
03/18/08	Tues	4	27 Lds	31 Mtys	17 Lds	Swapped old loads
03/20/08	Thurs	4	17 Lds			Extra train during day to clean up left behind loads
03/20/08	Thurs	4	19 Lds	10 Mtys	0	Regular night train
03/20/08	Thurs	4	27 Lds	31 Mtys	13 Lds	
03/25/08	Tues	4	27 Lds	15 Mtys	0	
03/27/08	Thurs	4	28 Lds			Cleaned out all loads
04/01/08	Tues	4	25 Lds	27 Mtys	20 Lds	
04/03/08	Thurs	4	24 Lds	14 Mty	11 Lds, 1 Mty	

Siskiyou Operations

4/7/2008	Mon	4	23 Lds 1 Mty	5 Mty	0	Extra to clean up
4/8/2008	Tues	4	18 Lds	14 Mty	13 Lds	Too many at Weed to shove up hill with 2 units
4/10/2008	Thurs	4	23Lds 2 Mty	17 Mty	0	
4/15/2008	Tues	2	7 Lds	6 Mty	0	No Timber Products cars, RFP Veneer only
4/17/2008	Thurs	3	9 Lds	2 Mty	0	No Timber Products cars, RFP Veneer only
4/22/2008	Tues	2	8 Lds	5 Mty	0	No Timber Products cars, RFP Veneer only
4/24/2008	Thurs	2	7 Lds	0 Mty	0	No Timber Products cars, RFP Veneer only
4/29/2008	Tues	2	9 Lds	0 Mty	0	No Timber Products cars, RFP Veneer only
5/1/2008	Thurs	2	11 Lds 1 Mty	2 Mty	0	No Timber Products cars, RFP Veneer only
5/6/2008	Tues					

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